

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 034536-0390
(formerly 038602-0402)

In re patent application of

Peng Cho TANG *et al.*

Serial No.: 09/191,199

Group Art Unit: 1624

Filed: November 12, 1998

Examiner: B. Coleman

For: AZAINDOLE TYROSINE KINASE INHIBITORS (as amended)

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38

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Your Petitioner, SUGEN, Inc., hereinafter represents that it is the owner of the entire right, title, and interest in and to U.S. Patent Application Serial No. 09/191,199, filed November 12, 1998, by virtue of an Assignment filed and recorded on February 22, 1999, on Reel/Frame 9803/0221, in the United States Patent and Trademark Office, a copy of which is attached hereto as APPENDIX A. Further, your Petitioner represents that it is the owner of the entire right, title and interest in and to U.S. Patent Application Serial No. 09/190,931, filed

10/20/2003 PSTH/DEL 00000001 190741 09191199
01 FC:1814 110.00 88
November 12, 1998, by virtue of an Assignment filed and recorded on February 22, 1999, on Reel/Frame 9803/0345, in the United States Patent and Trademark Office, a copy of the

Assignment document is attached hereto as APPENDIX B.

Your Petitioner, SUGEN, Inc., hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term defined in 35 USC 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on U.S. Patent Application Serial No. 09/190,931, filed November 12, 1998. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that the legal title to U.S. Patent Application Serial No. 09/190,931, shall be the same as the legal title to any patent granted on the instant application, this agreement to run with any patent granted on the instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim any terminal part of any patent granted on the instant application, prior to the full statutory term of U.S. Patent Application Serial No. 09/190,931 as defined in 35 U.S.C. §§154-156 and 173, in the event that any patent granted on U.S. Patent Application Serial No. 09/190,931, expires for failure to pay a maintenance fee, is held unenforceable or is found invalid in a final judgment by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR §1.321(a), has all claims canceled by a reexamination certificate, is reissued or as a result of an interference proceeding, or is otherwise in any manner not deemed to provide the rights conveyed by 35 USC §154, prior to the full statutory term of any patent granted on U.S. Patent Application Serial No. 09/190,931, as defined in 35 USC §§154-156 and 173, except for the separation of legal title stated above. Further, Petitioner does not disclaim any terminal part of a patent granted on the instant application that would extend beyond the present termination of any patent granted on U.S. Patent Application Serial No. 09/190,931, in the event that such present

term is extended by virtue of compliance with the conditions for term extension of any present or future patent term extension provisions of the patent law, including but not limited to 35 U.S.C. §§155, 155A or 156, and without waiving Petitioner's right to extend the term of a patent granted on the instant application to the extent provided by law.

The undersigned, being the Attorney of Record for the instant application, and duly authorized to act on behalf of Petitioner, certifies that she has reviewed the Assignments attached as APPENDICES A and B, and to the best of her knowledge and belief, legal title to the instant application rests with Petitioner, SUGEN, Inc. The undersigned declares that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application or any patent issuing therefrom.

Respectfully submitted,

By 

Beth A. Burrous
Attorney for Applicants
Registration No. 35,087

Date September 25, 2003

FOLEY & LARDNER
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5300
Telephone: (202) 672-5427
Facsimile: (202) 672-5399

Should additional fees be necessary in connection with the filing of this paper, or if a petition for extension of time is required for timely acceptance of same, the Commissioner is hereby authorized to charge Deposit Account No. 19-0741 for any such fees; and applicant(s) hereby petition for any needed extension of time.

APPENDIX A



890 MAN
UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAY 26, 1999

PTAS



100981573A

LYON & LYON LLP
RICHARD J. WARBURG
633 WEST FIFTH STREET, SUITE 4700
LOS ANGELES, CA 90071-2066

UNITED STATES PATENT AND TRADEMARK OFFICE
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 02/22/1999

REEL/FRAME: 9803/0221
NUMBER OF PAGES: 5

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
TANG, PENG CHO

DOC DATE: 02/10/1999

ASSIGNOR:
SUN, LI

DOC DATE: 02/10/1999

ASSIGNOR:
MCMAHON, GERALD

DOC DATE: 02/15/1999

ASSIGNEE:
SUGEN, INC.
230 EAST GRAND AVENUE
SO. SAN FRANCISCO, CALIFORNIA 94080

SERIAL NUMBER: 09191199
PATENT NUMBER:

FILING DATE: 11/12/1998
ISSUE DATE:

JUN 15 1999

S. J. ROSE

RECEIVED
JUN 15 1999
U.S. PATENT & TRADEMARK OFFICE

9803/0221 PAGE 2

PAULA MCCRAY, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

03-15-1999

FORM PTO-1595
1-31-92U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

REC



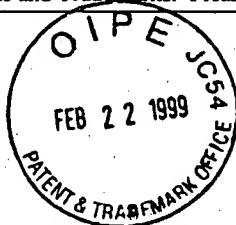
:ET

Docket No. 238/130

100981573

To the Honorable Commissioner of Patents and Trademarks. Please record this document or copy thereof.

1. Name of conveying party(ies):

Peng Cho Tang
Li Sun
Gerald McMahon

Additional name(s) of conveying party(ies) attached?

☐ Yes ☒ No

2. Name and address of receiving party:

Name: SUGEN, INCStreet Address 230 East Grand AvenueCity: So. San FranciscoState: CaliforniaZip: 94080Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

9-99-99

☒ AssignmentExecution Date: 10 and 16 February 1999

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No(s). 09/191,199

B. Patent No(s):

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Richard J. WarburgInternal Address: LYON & LYON LLP
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-20666. Total number of applications and patents involved: 17. Total fee (37 CFR 3.41): \$ 40.00☒ Enclosed☒ Charge this Deposit Account if any additional fee is required8. Deposit Account Number: 12-2475

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Charles S. Berkman, Reg No. 38,077

Date: February 17, 1999Total number of pages including cover sheet: 5

OMB No. 0651-0011 (exp. 4/94)

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02/24/1999 AIRBORNE 00000056 09191199

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ASSIGNMENT

For valuable consideration, we, PENG CHO TANG, a citizen of USA; LI SUN, a citizen of CHINA; and GERALD MCMAHON, a citizen of USA (hereinafter referred to as "the Assignors"), hereby assign to SUGEN, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware and having its principal place of business at 230 East Grand Avenue, South San Francisco, California 94080 and its successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest throughout the world in the inventions and improvements which are the subject of an application for United States Patent filed on November 12, 1998, U.S. Serial No. 09/191,199, and related applications and patents, entitled 3-HETEROARYLIDENEAZAINDOLIN-2-ONE TYROSINE KINASE INHIBITORS, this assignment including said application, any and all United States and foreign patents granted for any of said inventions or improvements, including all divisions, continuations, reissues, continuations-in-part and extensions thereof, and the right to claim priority based on the filing date of said application and based on the filing date of any provisional application of which said application claims the benefit under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply in all countries in our names or in its own name for patents and like rights of exclusion and for inventor's certificates for said inventions and improvements; and we agree for ourselves and our heirs, legal representatives and assigns, without further compensation, upon request to perform such lawful acts, to promptly provide Assignee with all pertinent facts and documents relating to said invention or application as may be known and accessible to us, to testify in any interference or litigation related to said invention or application and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this Assignment.

The Assignors hereby covenant that no assignment, sale, agreement, or encumbrance has been or will be made or entered into which would conflict with this Agreement.

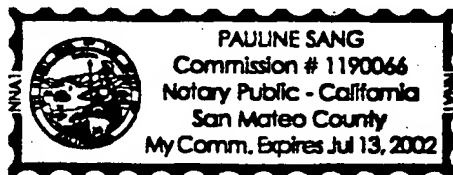
WITNESS my hand at South San Francisco, CA
this 10th day of February, 1999.
Peng Cho Tang

STATE OF California)
COUNTY OF San Mateo) ss

On 02/10/99 before me, PAULINE SANG, Notary Public, personally appeared
Peng Cho Tang

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies); and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Pauline Sang
Notary Public in and for said County and State.

WITNESS my hand at SOUTH SAN FRANCISCO, CA
this 10th day of FEBRUARY, 1999.

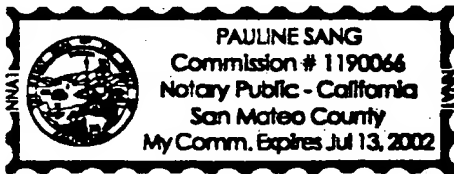
Li Sun
Li Sun

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN MATEO)

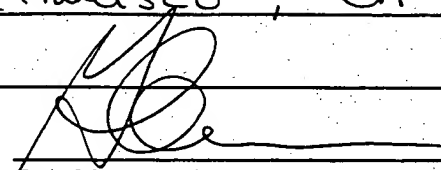
On 02/10/99 before me, PAULINE SANG, Notary Public, personally appeared
Li Sun

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WITNESS my hand and official seal.



Pauline Sang
Notary Public in and for said County and State

WITNESS my hand at South San Francisco, CA
this 16th day of February, 1999.

Gerald McMahon

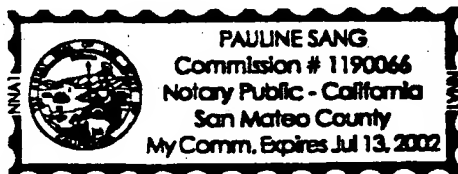
STATE OF California)
COUNTY OF San Mateo) ss

On 02/16/99 before me, Pauline Sang, Notary Public, personally appeared
Gerald McMahon

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


Notary Public in and for said County and State



APPENDIX B

193

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

MAY 26, 1999

PTAS

LYON & LYON LLP
RICHARD J. WARBURG
633 WEST FIFTH STREET, SUITE 4700
LOS ANGELES, CA 90071-2066

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**UNITED STATES PATENT AND TRADEMARK OFFICE
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RECORDATION DATE: 02/22/1999

REEL/FRAME: 9803/0345
NUMBER OF PAGES: 7

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:
TANG, PENG CHO

DOC DATE: 02/09/1999

ASSIGNOR:
SUN, LI

DOC DATE: 02/09/1999

ASSIGNOR:
MCMAHON, GERALD

DOC DATE: 02/09/1999

ASSIGNOR:
SHAWVER, LAURA KAY

DOC DATE: 02/09/1999

ASSIGNOR:
HIRTH, KLAUS PETER

DOC DATE: 02/09/1999

ASSIGNEE:
SUGEN, INC.
230 EAST GAND AVENUE
SO. SAN FRANCISCO, CALIFORNIA 94080

JUN - 8 1999

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JUN 9 2 1999
103-53511-05

9803/0345 PAGE 2

SERIAL NUMBER: 09190931
PATENT NUMBER:

FILING DATE: 11/12/1998
ISSUE DATE:

ANTIONE ROYALL, EXAMINER
ASSIGNMENT DIVISION
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03-15-1999

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Patent and Trademark Office

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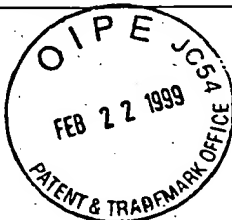
Docket No. 238/129

100981617

To the Honorable Commissioner of Patents and

documents or copy thereof.

1. Name of conveying party(ies):

Peng Cho Tang
Li Sun
Gerald McMahon
Laura Kay Shawver
Klaus Peter Hirth

Additional name(s) of conveying party(ies) attached?

☐ Yes ☒ No

3. Nature of conveyance:

2-22-99

☒ Assignment

Execution Date: 9 February 1999

2. Name and address of receiving party:

Name: SUGEN, INCStreet Address 230 East Grand AvenueCity: So. San FranciscoState: CaliforniaZip: 94080Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No(s). 09/190,931

B. Patent No(s):

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Richard J. WarburgInternal Address: LYON & LYON LLP
633 West Fifth Street, Suite 4700
Los Angeles, CA 90071-20666. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

☒ Enclosed☒ Charge this Deposit Account if any additional fee is required8. Deposit Account Number: 12-2475

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Charles S. Berkman, Reg No. 38,077

Date: February 16, 1999Total number of pages including cover sheet: 7

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SD-104374.1

ASSIGNMENT

For valuable consideration, we, PENG CHO TANG, a citizen of USA; LI SUN, a citizen of CHINA; GERALD MCMAHON, a citizen of USA; LAURA KAY SHAWVER, a citizen of USA; and KLAUS PETER HIRTH, a citizen of GERMANY (hereinafter referred to as "the Assignors"), hereby assign to SUGEN, INC., a corporation organized and existing under and by virtue of the laws of the State of Delaware and having its principal place of business at 230 East Grand Avenue, South San Francisco, California 94080 and its successors and assigns (collectively hereinafter called "the Assignee"), the entire right, title and interest throughout the world in the inventions and improvements which are the subject of an application for United States Patent filed on November 12, 1998, U.S. Serial No. 09/190,931, and related applications and patents, entitled 3- (PIPERAZINYLBENZYLIDENYL) -2-INDOLINONE COMPOUNDS AND DERIVATIVES AS PROTEIN TYROSINE KINASE INHIBITORS, this assignment including said application, any and all United States and foreign patents granted for any of said inventions or improvements, including all divisions, continuations, reissues, continuations-in-part and extensions thereof, and the right to claim priority based on the filing date of said application and based on the filing date of any provisional application of which said application claims the benefit under the International Convention for the Protection of Industrial Property, the Patent Cooperation Treaty, the European Patent Convention, and all other treaties of like purposes; and we authorize the Assignee to apply in all countries in our names or in its own name for patents and like rights of exclusion and for inventor's certificates for said inventions and improvements; and we agree for ourselves and our heirs, legal representatives and assigns, without further compensation, upon request to perform such lawful acts, to promptly provide Assignee with all pertinent facts and documents relating to said invention or application as may be known and accessible to us, to testify in any interference or litigation related to said invention or application and to sign such further applications, assignments, Preliminary Statements and other lawful documents as the Assignee may reasonably request to effectuate fully this Assignment.

The Assignors hereby covenant that no assignment, sale, agreement, or encumbrance has been or will be made or entered into which would conflict with this Agreement.

WITNESS my hand at South San Francisco, CA
this 9th day of February, 1999.

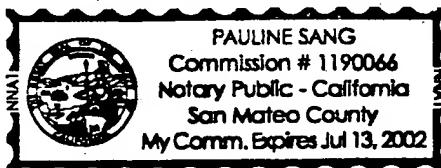
[Signature]
Peng Cho Tang

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO) ss

On 2/9/99 before me, Pauline Sang, Notary Public, personally appeared
Peng Cho Tang

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



[Signature]
Notary Public in and for said County and State

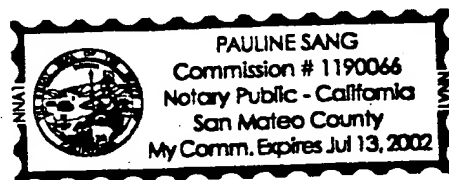
WITNESS my hand at South San Francisco, CA
this 9th day of February, 1999.
Li Sun
Li Sun

STATE OF California)
COUNTY OF San Mateo) ss

On 2/9/99 before me, PAULINE SANG, Notary Public, personally appeared
Li Sun

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WITNESS my hand and official seal.



Pauline Sang
Notary Public in and for said County and State

WITNESS my hand at SOUTH SAN FRANCISCO, CA
this 9th day of FEBRUARY, 1999.

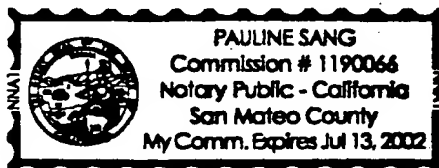

Gerald McMahon

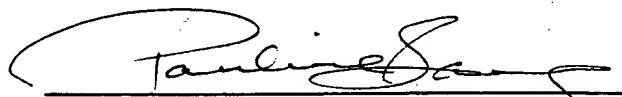
STATE OF CALIFORNIA)
) ss
COUNTY OF SAN MATEO)

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Gerald McMahon

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WITNESS my hand and official seal.




Notary Public in and for said County and State

WITNESS my hand at SOUTH SAN FRANCISCO, CA
this 9th day of FEBRUARY, 1999.

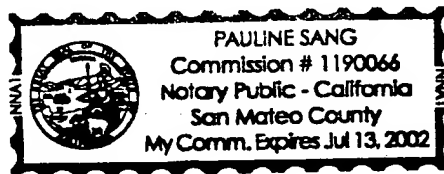
Laura Kay Shawver
Laura Kay Shawver

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO) ss

On 2/9/99 before me, PAULINE SANG, Notary Public, personally appeared
Laura Kay Shawver

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Pauline Sang
Notary Public in and for said County and State

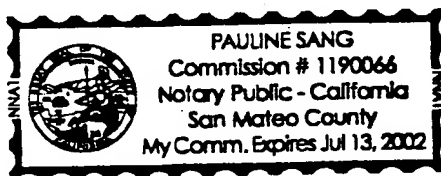
WITNESS my hand at SOUTH SAN FRANCISCO, CA
this 9th day of FEBRUARY, 1999.
Klaus Peter Hirth

STATE OF CALIFORNIA)
COUNTY OF SAN MATEO) ss

On 2/9/99 before me, PAULINE SANG, Notary Public, personally appeared
Klaus Peter Hirth

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be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me
that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted,
executed the instrument.

WITNESS my hand and official seal.



Pauline Sang
Notary Public in and for said County and State